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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,404	10/28/2003	William L. Grilliot	MOR3334P0890US	5637
32116	7590	09/29/2005	EXAMINER	
WOOD, PHILLIPS, KATZ, CLARK & MORTIMER 500 W. MADISON STREET SUITE 3800 CHICAGO, IL 60661			HOEY, ALISSA L	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/695,404

Applicant(s)

GRILLIOT ET AL.

Examiner

Alissa L. Hoey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This is in response to request for reconsideration received on 07/05/05. No amendments were made to the claims and Applicant's remarks have been responded to below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker (US 3,269,036) in view of Hightower, Jr. (US Re. 32,506).

In regard to claim 1, Parker teaches a pair of protective pants (10) having an upper portion which when worn covers a lower region of a wearer's torso and two leg portions (figure 2). Each of the leg portion when worn covers one of the wearer's legs and each has an upper region which extends downwardly from the upper portion and a lower region which extends upwardly from a lower end of the leg portion towards the upper region and which terminates no higher than where the leg portion when worn covers the wearer's knee (figures 2, identifiers 22 and 11). The lower region has a layer of puncture-resistant material the extends upwardly from the lower end of the leg portion and surrounds the lower end of the leg portion and which is resistant to puncture by snakes or by thorny or spiky plants (figure 3, column 1, lines 9-13 and 33-43).

However, Parker fails to teach the puncture-resistant material being made from a cloth fabric.

Hightower teaches a puncture resistant material made from a cloth fabric to resist puncture by snakes, or by thorny or spiky plants (column 2, lines 40-45 and 62-68).

In regard to claims 2 and 4, Parker teaches the upper portion and the upper region of the leg portions having an outer layer of abrasion resistant material (column 1, lines 57-63). Further, Parker teaches only the lower region of each leg portion having the layer of puncture-resistant material (column 2, lines 16-64).

In regard to claim 3 and 4, Parker fails to teach the upper portion and the leg portions from the upper portion to the lower ends of the leg portion having one or more inner layers.

Hightower teaches the upper portion and the leg portions from the upper portion to the lower ends of the leg portion having one or more inner layers (figure 3, identifiers 21, 17).

It would have been obvious to have provided the protective pant of Parker with the puncture-resistant cloth material and inner layer of Hightower, since the protective pant of Parker provided with a puncture-resistant cloth would provide for comfort and ease of movement while puncture protection at the same time. Further, the inner layer provided on the leg portions of Parker would provide greater protection to the user than just a single layer of woven fabric.

Response to Arguments

4. Applicant's arguments filed 07/05/05 have been fully considered but they are not persuasive.

I) Applicant argues that Parker and Hightower fail to teach a pants garment.

Examiner notes as defined by Merriam Webster Collegiate Dictionary: Tenth Edition, a pant garment is an outer garment covering each leg separately and usually extending from the waist to the ankle. The garment of Parker teaches a garment that is an outer garment covering each leg separately and extending from the waist to the ankle. Further, Parker teaches a garment that has an upper portion that covers a lower region of a wearer's torso, since the garment of Parker meets the definition of a pant garment it reads on the limitations as claimed.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

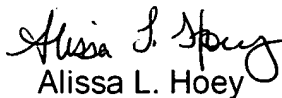
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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Alissa L. Hoey

Primary Examiner

Technology Center 3700